

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

REGINALD YEARBY

*

Petitioner,

*

v.

* CIVIL ACTION NO.2:05-CV-490-T

SCOTT MIDDLEBROOKS, WARDEN

*

Respondent.

*

ORDER

On August 16, 2005 Respondent filed a response addressing the claims for relief presented in the instant 28 U.S.C. § 2241 habeas corpus petition. In this response, Respondent contends that the petition for habeas corpus relief is due to be denied because Petitioner is entitled to no relief on the claim presented therein.

Accordingly, it is

ORDERED that on or before September 6, 2005 Petitioner may file a response to Respondent's answer. Any documents or evidence filed after this date will not be considered by the court except in exceptional circumstances. At any time after September 6, 2005, the court will determine whether an evidentiary hearing is necessary. If it appears that an evidentiary hearing is not required, the court will dispose of the petition as justice requires. *Cf. Rule 8(a), Rules Governing Section 2255 Cases in the United States District Courts.*

Petitioner is instructed that when responding to Respondent's answer he may file sworn affidavits or other documents in support of his claims. Affidavits should set forth

specific facts which demonstrate that Petitioner is entitled to relief on the grounds presented in the habeas corpus petition. If documents which have not previously been filed with the court are referred to in the affidavits, sworn or certified copies of those papers must be attached to the affidavits or served with them. When Petitioner attacks Respondent's answer by use of affidavits or other documents, the court will, at the appropriate time, consider whether to expand the record to include such materials. *Cf. Rule 7, Rules Governing Section 2255 Cases in the United States District Courts.*

Petitioner is specifically cautioned that if he fails to file a response to Respondent's answer within the time allowed by the court, the court thereafter will proceed to consider the merits of the petition.

Done, this 17th day of August, 2005.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE